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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,300	09/10/2003	Hironori Emaru	16869P-079000US	5396
20350 7590 04/28/2009 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			EXAMINER LEE, PHILIP C	
			ART UNIT 2448	PAPER NUMBER
			MAIL DATE 04/28/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/660,300

Applicant(s)

EMARU ET AL.

Examiner

PHILIP C. LEE

Art Unit

2448

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) 11 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, 10, 12, 13, 15-18 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date 2/12/08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ ~~Notice of Informal Patent Application~~
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-7, 9-10, 12-13, 15-18 and 20 are presented for examination and claims 11 and 14 are withdrawn.
2. Applicant's election without traverse of Group I, claims 1-7, 9-10, 12-13, 15-18 and 20 in the reply filed on 4/18/2008 is acknowledged.

Objection

3. Claim 20 is objected to because according to MPEP 608.01, antecedent basis for the terms appearing in the claims, while an applicant is not limited to the nomenclature used in the application as filed, he or she should make appropriate amendment of the specification whenever this nomenclature is departed from by amendment of the claims so as to have clear support or antecedent basis in the specification for the new terms appearing in the claims. Applicant will be required to make appropriate amendment to the description to provide clear support or antecedent basis for the terms appearing in the claims provided no new matter is introduced. The term "computer readable medium" is lacking clear support or antecedent basis in the description of the specification.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2, 5-7, 9-10, 12-13, 15-16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGee et al, U.S. Patent 6,643,613 (hereinafter McGee) in view of Grandin et al, U.S. Patent 6,633,230 (hereinafter Grandin).

6. McGee was cited in the previous office action.

7. As per claim 1, McGee teaches the invention substantially as claimed comprising:

a communication device configured to receive operating data of a monitoring object (to receive metric data) inside a managed computer and information relating to an event (to receive threshold alarm events (notification of out-of-tolerance metrics)) (fig.

14; col. 3, lines 1-4; col. 19, lines 1-11; col. 6, lines 43-52);

a memory to store the operating data received by the communication device (col. 19, lines 4-5; col. 6, lines 43-52);

a storage device (col. 22, lines 31-33); and

a processor configured to identify from the operating data received a portion of the operating data which relates to the event (to identify a portion (e.g., 45 of the 325 pairs of metrics) relates to the alarm group) (col. 21, lines 12-26; col. 19, lines 21-23).

8. McGee does not specifically teach when to store the operating data. Grandin teaches wherein when the event indicates an occurrence of trouble or a degradation in performance of the monitoring object, then the operating data received is stored in the storage device (col. 2, lines 57-64; col. 5, lines 20-25), and wherein when the event does not indicate an occurrence of trouble or a degradation in performance of the monitoring object, then the operating data received is not stored in the storage device (col. 2, lines 57-64; col. 5, lines 29-35).

9. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of McGee and Grandin because Grandin's teaching of when to store the operating data would increase the efficiency of McGee's system by minimizing the amount of operating data stored for review while still indicating the genuine problems of the object.

10. As per claim 12, McGee teaches the invention substantially as claimed comprising:
- a communication device configured to receive operating data of a monitoring object (to receive metric data) and information relating to an event (to receive threshold alarm events (notification of out-of-tolerance metrics)) (fig. 14; col. 3, lines 1-4; col. 19, lines 1-11; col. 6, lines 43-52);
 - an operating data buffer to store the operating data received by the communication device (col. 19, lines 4-5; col. 6, lines 43-52);
 - a data storage (col. 22, lines 31-33); and

a processor configured to identify from the operating data received a portion of the operating data which relates to the event (to identify a portion (e.g., 45 of the 325 pairs of metrics) relates to the alarm group) (col. 21, lines 12-26; col. 19, lines 21-23).

11. McGee does not specifically teach when to store the operating data. Grandin teaches wherein when the event indicates an occurrence of trouble or a degradation in performance of the monitoring object, then the operating data received is stored in the data storage (col. 2, lines 57-64; col. 5, lines 20-25), and wherein when the event does not indicate an occurrence of trouble or a degradation in performance of the monitoring object, then the operating data received is not stored in the data storage (col. 2, lines 57-64; col. 5, lines 29-35).

12. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of McGee and Grandin because Grandin's teaching of when to store the operating data would increase the efficiency of McGee's system by minimizing the amount of operating data stored for review while still indicating the genuine problems of the object.

13. As per claim 15, McGee teaches the invention substantially as claimed for managing one or more monitoring objects on the basis of operating data (col. 18, line 60-col. 19, line 5), comprising:

receiving the operating data of the monitoring object (receiving metric data) and information relating to an event (receiving threshold alarm events (notification of out-of-tolerance metrics)) (fig. 14; col. 3, lines 1-4; col. 19, lines 1-11; col. 6, lines 43-52);

storing the operating data in a memory (col. 19, lines 4-5; col. 6, lines 43-52);

identifying from the operating data a portion of the operating data which relates to the event (to identify a portion (e.g., 45 of the 325 pairs of metrics) relates to the alarm group) (col. 21, lines 12-26; col. 19, lines 21-23); and

displaying the operating data identified (col. 7, lines 33-47).

14. McGee does not specifically teach when to store the operating data. Grandin teaches storing the operating data in a storage device when the event indicates an occurrence of trouble or a degradation in performance of the monitoring object, wherein the operating data is not stored in the storage device otherwise (col. 2, lines 57-64; col. 5, lines 20-35).

15. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of McGee and Grandin because Grandin's teaching of when to store the operating data would increase the efficiency of McGee's system by minimizing the amount of operating data stored for review while still indicating the genuine problems of the object.

16. As per claims 2 and 16, McGee and Grandin teach the invention substantially as claimed in claims 1 and 15 above. McGee further teach wherein the information relating to the event

includes at least one of information showing presence or absence of occurrence of the event, information showing an occurrence time of the event, and information showing a classification of the event (col. 19, lines 6-10), and

wherein the processor of the management computer is configured to identify the portion of the operating data which relates to the event (col. 21, lines 12-26; col. 19, lines 21-23), based on the operating data and the information relating to the event including at least one of the information showing presence or absence of occurrence of the event (fig. 14; col. 20, lines 52-57; col. 2, lines 19-21), the information showing the occurrence time of the event, and the information showing the classification of the event (col. 19, 6-10).

17. As per claim 5, McGee and Grandin teach the invention substantially as claimed in claim 1 above. McGee further teach wherein the monitoring object includes at least one of a hardware structure part in a storage device (monitoring memory utilization, col. 5, lines 14-19) connected to the management computer through a network (col. 25, lines 1-6) and a program stored in the storage device in the managed computer (It is inherent that a program must be stored in memory of a database server or network computer) (col. 6, lines 45-47; col. 18, lines 60-62).

18. As per claim 6, McGee and Grandin teach the invention substantially as claimed in claim 1 above. McGee further teach wherein the portion of the operating data identified by the process is to be used for trouble analysis and to carry out the trouble analysis (col. 2, lines 19-21).

19. As per claim 7, McGee teaches the invention substantially as claimed comprising a management computer and a managed computer which is managed by the management computer (fig. 14; col. 18, lines 60-62; col. 25, lines 1-6),

wherein the managed computer includes:

a managed computer processor which is configured to obtain operating data from a monitoring object (collects metric data from a system) and to generate information relating to an event, the event including information indicating trouble occurrence or performance decrement of the monitoring object when there is an occurrence of trouble or a decrement of performance with the monitoring object (provides threshold alarm event (notification of out-of-tolerance metric)) (fig. 14; col. 6, lines 43-52; col. 18, lines 60-65; col. 18, line 60-col. 19, line 2); and

a managed computer communication device which is configured to transmit the operating data from the monitoring object and the information relating to the event to the management computer (send both metric data and threshold alarm event)(fig. 14; col. 6, lines 43-52; col. 18, line 65-col. 19, line 5), and

wherein the management computer includes:

a management computer communication device which is configured to receive from the managed computer communication device the operating data and the information relating to the event (to receive metric data and threshold alarm event) (col. 3, lines 1-4; col. 19, lines 1-11; col. 6, lines 43-52);

an operating data buffer to store the operating data received by the management computer communication device (col. 19, lines 4-5; col. 6, lines 43-52);

a data storage (col. 22, lines 31-33); and

a management computer processor which is configured to identify from the operating data received a portion of the operating data relating to the event (to identify a portion (e.g., 45 of the 325 pairs of metrics) relates to the alarm group) (col. 21, lines 12-26; col. 19, lines 21-23).

20. McGee does not specifically teach when to store the operating data. Grandin teaches wherein when the event indicates an occurrence of trouble or a degradation in performance of the monitoring object, then the operating data received is stored in the data storage (col. 2, lines 57-64; col. 5, lines 20-25), and wherein when the event does not indicate an occurrence of trouble or a degradation in performance of the monitoring object, then the operating data received is not stored in the data storage (col. 2, lines 57-64; col. 5, lines 29-35).

21. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of McGee and Grandin because Grandin's teaching of when to store the operating data would increase the efficiency of McGee's system by minimizing the amount of operating data stored for review while still indicating the genuine problems of the object.

22. As per claim 13, McGee and Grandin teach the invention substantially as claimed in claim 12 above. McGee further teach wherein the management computer processor is configured, when the information relating to the event is received, to store the information

relating to event in the operating data buffer in association with the operating data stored in the operating data buffer (col. 19, lines 6-23; col. 20, lines 12-14), to write the operating data stored and the information relating to the event from the operating data buffer to the data storage (col. 22, lines 31-33), and to identify from the operating data received by the management computer communication device a portion of the operating data relating to the event (col. 21, lines 12-26; col. 19, lines 21-23), based on the operating data stored and the information relating to the event written to the data storage (fig. 14; col. 20, lines 52-57; col. 22, lines 31-33; col. 23, line 58-col. 24, line 5).

23. As per claim 9, McGee teaches the invention as claimed in claim 7 above. McGee further teach wherein the management computer processor is configured, when the information relating to the event is received, to store the information relating to event in the operating data buffer in association with the operating data stored in the operating data buffer (col. 19, lines 6-23; col. 20, lines 12-14), to write a part of the operating data stored and the information relating to the event from the operating data buffer to the data storage (fig. 14; col. 22, lines 31-33), the part of the stored operating data to be written to the data storage relating to the event (col. 21, lines 12-26), based on the part of the operating data stored and the information relating to the event written to the data storage (fig. 14; col. 20, lines 52-57; col. 22, lines 31-33; col. 23, line 58-col. 24, line 5).

24. As per claim 10, McGee teaches the invention as claimed in claim 7 above. McGee further teach wherein the management computer processor is configured, when the information

relating to the event is received, to store the information relating to event in the operating data buffer in association with the operating data stored in the operating data buffer (col. 19, lines 6-23; col. 20, lines 12-14), to determine a part of the operating data to be written from the operating data buffer to the data storage based on the information relating to the event (col. 21, lines 12-26), and to write the part of the operating data stored from the operating data buffer to the data storage (fig. 14; col. 22, lines 31-33), and to carry out the trouble analysis based on the part of the operating data stored written to the data storage (col. 23, line 58-col. 24, line 5; col. 2, lines 19-21).

25. As per claim 20, McGee teaches the invention as claimed for managing a monitoring object on the basis of operating data (col. 18, line 60-col. 19, line 5), comprising: code for receiving the operating data (receiving metric data) (fig. 14; col. 3, lines 1-4; col. 19, lines 1-11; col. 6, lines 43-52); code for storing the operating data in a memory (col. 19, lines 4-5; col. 6, lines 43-52);)code for identifying from the operating data a portion of the operating data which relates to the event (e.g., 45 of the 325 pairs of metrics) relates to the alarm group) (col. 21, lines 12-26; col. 19, lines 21-23).

26. McGee does not specifically teach when to store the operating data. Grandin teaches code for storing the operating data in a storage device when the event indicates an occurrence of trouble or a degradation in performance of the monitoring object, wherein the operating data is not stored in the storage device otherwise (col. 2, lines 57-64; col. 5, lines 20-35).

27. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of McGee and Grandin because Grandin's teaching of when to store the operating data would increase the efficiency of McGee's system by minimizing the amount of operating data stored for review while still indicating the genuine problems of the object.

28. Claims 3-4 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGee and Grandin in view of Wilson et al, U.S. Patent 6,714,976 (hereinafter Wilson).

29. Wilson was cited in the previous office action.

30. As per claims 3 and 17, McGee and Grandin teach the invention substantially as claimed in claims 1 and 15 above. Although McGee teaches wherein the management computer is configured to manage a plurality of managed computers (fig. 14; col. 18, lines 60-62; col. 25, lines 1-6), wherein the communication device is configured to receive operating data of monitoring objects inside the plurality of managed computers and information relating to an event (fig. 14; col. 3, lines 1-4; col. 19, lines 1-11; col. 6, lines 43-52), identifying from the operating data received by the communication device a portion of the operating data which is received from the managed computer in which the event occurred (col. 21, lines 12-26; col. 19, lines 21-23), and wherein the processor of the management computer is configured to identify the portion of the operating data which relates to the event (col. 21, lines 12-26; col. 19, lines 21-23), based on the operating data and the information relating to the event including the host

information (fig. 14; col. 20, lines 52-57; col. 2, lines 19-21), however, McGee and Grandin do not teach wherein the information relating to an event includes host information. Wilson teaches wherein the information relating to an event includes host information (268, fig. 11; 286, fig. 12).

31. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of McGee, Grandin and Wilson because Wilson's teaching of information relating to an event includes host information would increase the alertness in McGee's and Grandin's systems by allowing the monitored object to be identified along with the monitored metric data and the threshold alarm events.

32. As per claims 4 and 18, McGee, Grandin and Wilson teach the invention substantially as claimed in claims 3 and 17 above. McGee further teach wherein the information relating to the event includes information showing presence or absence of occurrence of the event (notification of out-of-tolerance metric) (col. 19, lines 6-10), and wherein the processor of the management computer is configured to identify the portion of the operating data which relates to the event (col. 21, lines 12-26; col. 19, lines 21-23), based on the operating data and the information showing presence or absence of occurrence of the event (fig. 14; col. 20, lines 52-57; col. 19, lines 1-10).

33. Applicant's arguments filed 12/31/2007 have been fully considered but they are not persuasive.

34. In the remark, applicant argued that:

- (1) The disclosure provides antecedent basis for the recited "computer readable medium".
- (2) McGee fails to teach wherein when the event indicates an occurrence of trouble or a degradation in performance of the monitoring object, then the operating data received is stored in the storage device, and wherein when the event does not indicate an occurrence of trouble or a degradation in performance of the monitoring object, then the operating data received is not stored in the storage device.

35. In response to point (1), as stated above, applicant should make appropriate amendment of the specification whenever this nomenclature is departed from the claims so as to have clear support or antecedent basis in the specification for the new terms appearing in the claims. This is necessary in order to insure certainty in construing the claims in the light of the specification, *Ex parte Kotler*, 1901 C.D. 62, 95 O.G. 2684 (Comm'r Pat. 1901). See 37 CFR 1.75, MPEP §608.01(i) and § 1302.01. Under 37 CFR 1.75(d)(1), the specification is objected to if it does not provide proper antecedent basis for the claims. Correction of the following is required:
Computer readable medium.

36. In response to point (2), applicant's argument is moot in view of new ground of rejection.

37. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Stevenson et al, US 2002/0161877

38. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C Lee whose telephone number is (571)272-3967. The examiner can normally be reached on 8 AM TO 5:30 PM Monday to Thursday and every other Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Firmin Backer can be reached on (571) 272-6703. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public

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/Philip C Lee/

Primary Examiner, Art Unit 2448